

Petition to Appeal the Decision of the Plat Committee to deny the owner's request to Amend Lot # 7, The Bluffs of Lake Fairview, to reposition the Open Space on Lot # 7. The petition would overturn the decision of the Committee taken on December 4, 2007 and to direct the Plat Officer to sign the Plat Amendment. On the motion "to grant" the prayer of the petitioner, the Planning, Building and Zoning Committee vote is 0 "aye" and 6 "nays".

- An "aye" vote on the motion shall operate in favor of the prayer of the petitioner.
 - A "nay" vote on the motion shall operate against the prayer of the petitioner.
 - A 2/3 (16) affirmative vote is required to approve the appeal of the petitioners.
- The final plat of the Bluffs of Lake Fairview was approved by the Planning, Building and Zoning Committee, also known as the Plat Committee, on October 28, 2004.
- In order for the developer to meet the conservation design standards of the Unified Development Ordinance, the developer was required to meet a minimum open space standard. This standard was satisfied through a combination of deed restricted open space (open space on private lots) and common open space (open space maintained by the homeowners' association).
- John and Gail Fischer purchased Lot # 7 and subsequently built a patio addition without securing proper permits from the County. The new patio extended into the restricted open space, an area designed to be free from construction and buildings. A PBD staff saw the construction and informed them of the UDO violation. Staff indicates the proposed amendment satisfied the policies of the UDO in considering open space adjustments.
- They submitted an amendment to the final plat for their lot to amend the limits of the deed restricted open space to accommodate the patio addition they constructed. The amendment would adjust the open space so that there would be no less open space on their property than originally platted and the patio would no longer be in the private open space area.
- On December 4, 2007, the Planning, Building and Zoning Committee denied the Fischer's request to amend their open space boundaries for several reasons including, the need to protect existing open space, the new areas were not good open space areas, and because the Fischers had proceeded to construct the patio without first obtaining permits from the County.
- Using the provisions of Article 10, Section 10.2. 6, the Fischers petition the County Board to overturn the decision of the Plat Committee and to direct the Plat officer to sign the amended Plat of Bluffs of the Lake. A 2/3 vote of the entire membership (16) of the County Board is required to approve the Fischer's appeal.

RECEIVED

JAN 04 2008

LAKE COUNTY
PLANNING, BUILDING & DEVELOPMENT

January 2, 2008

Lake County
18 N County Street, 6th Floor
Waukegan, IL. 60085
Attn: Phillip Rovang

Re: 26408 Penway, Wauconda Township, Case Identifier # 3362, Lot #7, Bluffs of
Lake Fairview Subdivision

Dear Mr. Rovang,

Per my December 21, 2007 conversation with Eric Wagner, I am officially appealing the December 4, 2007 Lake County Building & Zoning Committee decision that denied my request to reposition the open space for the property named above as it relates to the brick paver patio behind the existing home structure.

Please contact me with what my next step in the appeals process will be. I am looking forward to a swift, amicable, resolution to this issue.

Sincerely,



Gail Fischer

Cc: M. Eiden
K. Denkewalter

MEMORANDUM

December 4, 2007

TO: Lake County Planning, Building and Zoning Committee

FR: Robert Mosteller, Deputy Director
Lake County Department of Planning and DevelopmentRE: Lot 7, Bluffs of Lake Fairview Subdivision – Wauconda Township
Plat Amendment to exchange Deed Restricted Open Space

The Bluffs of Lake Fairview Subdivision is located on the southside of Ivanhoe Road approximately one-quarter mile east of State Route 59 in Wauconda Township. The property that is subject of the amendment is located at 22408 Pennway Circle. The proposed plat amendment consists of revising the deed restricted open space area platted within the subdivision on Lot 7 to address encroachments that have occurred since the home was constructed in 2006. Specifically, the amendment requests an even exchange of open space currently developed with a patio with other unrestricted land on the property. The proposed amendment will result in no net loss of open space.

A copy of the proposed plat amendment is attached to this report.

Recommendation

The Staff Review Committee has no objection to granting the proposed plat amendment.

Reasons for Recommendation

It is the Staff Review Committee's opinion that the applicant's request conforms to the Committee's policy concerning "open space exchange requests" as described as follows.

Standards for Open Space Amendments

The Planning Department will generally support and endorse amendments to deed restricted open space areas provided the application can satisfy the following requirements:

- 1.) The application shall result in no net loss of open space.
- 2.) If natural resources are involved in the amendment, the exchange shall involve the same resource.
- 3.) If natural resources are involved in the amendment, the natural resource protection requirement approved as part of the Site Capacity Calculations for the affected resource must remain unchanged.
- 4.) The open space area exchanged must be contiguous to other similarly situated open space.

How standards are addressed

Based on staff's review of the amendment the proposed amendment complies with the policy in the following manner:

1. The amendment proposes no net loss of open space.
2. There are no natural resources regulated by the Unified Development Ordinance involved in the amendment. The amendment involves simply an open space exchange.
3. The location of the open space is contiguous to other open space areas

September 7, 2007

Mr. Pat Tierney
Lake County Plat Committee
Waukegan, IL.

Re: Request of Plat Amendment for 26408 N. Pennway Circle, Wauconda Township

Dear Mr. Tierney,

We are submitting the following request to amend the plat for the above property. We would like to change the configuration of the Deed Restricted Open Space as per the plenum drawing redone by Haeg Engineering accommodating the change.

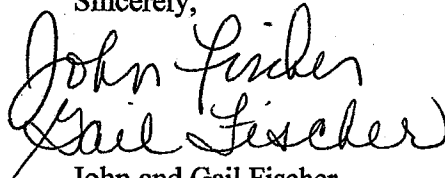
When discussing this particular lot with Jake Tumulty, representative of Taylor Hill Homes, aka Shorewood Properties, the developers, he stated that the only open space that could not be built upon was the shaded area at the base of the property. As potential owners, we reviewed the site plat, and thought we understood what he was saying, purchased the property and built our home.

This spring we thought a nice addition of useable backyard space to our property would be a patio. We contracted with a landscaper, the same one who had done all the grading and seeding work for the 42-acre development, and went ahead with the patio. Since we do not live in a city or village, we did not think that we needed permission from anyone to construct a block patio. It did not encroach on any of the covenants in our homeowner's association manual, and therefore we did not seek approval from any parties.

Soon after completion, one of your associates was in the area and stated that the patio was built on Deed Restricted Open Space. As stated above, we have had the engineering firm reconfigure the open space on our property and in our opinion, our property again conforms to the county's vision, which is to protect the natural resources of the area. We have replaced the 1,439 square feet that the patio infringed upon with the same square footage on either side of the housing structure in a contiguous manner. It is our opinion, and the opinion of the engineer, and hopefully yours, that this change does not deter the naturalness of the area nor does it impede any natural resources, including but not limited to plant and animal life.

We are requesting that the county approve the plat amendment in an expeditious manner.

Sincerely,

Handwritten signatures of John and Gail Fischer in black ink. The signature for John is on top, and the signature for Gail is below it, both written in a cursive style.

John and Gail Fischer
26408 N. Pennway Circle
Wauconda Township, IL.

PLAT OF AMENDMENT

OF

LOT 7 IN THE AMENDED PLAT OF THE BLUFFS OF LAKE FAIRVIEW, BEING AN AMENDMENT TO THE BLUFFS OF LAKE FAIRVIEW, A SUBDIVISION OF PART OF THE SOUTHEAST QUARTER OF SECTION 36, TOWNSHIP 44 NORTH, RANGE 6 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN LAKE COUNTY, ILLINOIS.

